

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25/03/2004

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THE HON'BLE MR.JUSTICE P.D.DINAKARAN

W.P.No.15467 of 2003

S.Venkataraman .. Petitioner

-Vs-

Tamilnadu Water Supply and Drainage Board
rep. by its Managing Director
Chepauk, Chennai-5. .. Respondent

PRAYER: Petition under Article 226 of the Constitution of India for issue of a writ of Certiorarified Mandamus, as stated therein.

For Petitioner : Mr.K.Doraisami
Senior Counsel

For Respondent : Mrs.Sudarsana Sundar

:ORDER

The petitioner, who was working as a Superintending Engineer in the respondent-Board, is facing criminal trial in Criminal Case No.19 of 2001 on the file of the Chief Judicial Magistrate, Erode for the offences punishable under Sections 120B read with Section 420 of the Indian Penal Code; Section 119 read with Section 469 of the Indian Penal Code, and Sections 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, in connection with the execution of work relating to combined water supply scheme to Doddampalayam and 116 other habitations in Sathiyamangalam Union in Erode District.

2. That apart, the petitioner is also facing a disciplinary action initiated against him with respect to the following charges:

"Charge: 1 - that he had in connivance with the field officers failed to exercise proper supercheck on the measurements taken by the officials; failed to verify the classification of soils in the reaches of the Distribution system already executed but confirmed the boosted measurement in the report and thereby acted disloyal to the Board.

Charge: 2 - that he failed in his legitimate duty as responsible officer as evidenced from the fact that he neglected to deduct Rs.9,62,74 8/- at the

earliest opportunity from the subsequent bills of the contractor but recovered the sum of Rs.7,17,748/- till the payment of LS x and part bill by unauthorisingly aiding the contractor for personal gains.

Charge: 3 - that he failed to maintain high standard of integrity and devotion to duty as expected from an officer of his rank."

3. The request of the petitioner to permit him to retire on his attainment of superannuation on 31.1.2001, was rejected by the respondent/Board and he was paid subsistence allowance of Rs.5,565/- with effect from 1.2.2001, pending an enquiry into the said charges. The representation of the petitioner dated 31.3.2003 requesting the respondent/Board to release his pensionary benefits was also rejected by order dated 9.5.2003 of the respondent/Board. Hence, the present writ petition seeking a writ of Certiorarified Mandamus to call for the records of the respondent/Board relating to Memo No.74894/Estt(Per)/ A2/20 00, dated 9.5.2003, to quash the same and to direct the respondent/ Board to forthwith settle the terminal benefits of the petitioner subject to the right of the respondent/Board to continue the criminal cases and departmental proceedings against the petitioner.

4. The core contention of Mr.K.Doraisami, learned senior counsel for the petitioner is that the respondent/ Board, by proceedings dated 20.8.2002, having settled the terminal benefits of one M.Natarajan, who was also facing criminal trial as accused No.9 along with the petitioner, ought to have released the terminal benefits of the petitioner also.

5. I am unable to accept the above contention of Mr.K.Doraisami, learned senior counsel, as it is evident from the proceedings dated 20.8 .2002 made in the case of one M.Natarajan that the said M.Natarajan was permitted to retire from service on the afternoon of 30.11.1994 without prejudice to the right of the respondent/Board to pursue further action in the disciplinary proceedings pending against him. But, on the other hand, the petitioner was not permitted to retire on his attainment of superannuation on 31.1.2001, and is being paid subsistence allowance at the rate of Rs.5,565/- with effect from 1.2.2001. I am, therefore, of the considered opinion that the proceedings dated 20 .8.2002 made in the case of one M.Natarajan could not be relied upon by the petitioner.

6. Furthermore, when the petitioner is facing criminal trial with respect to very serious charges, viz., for the offences punishable under Sections 120B read with Section 420 of the Indian Penal Code; Section 119 read with Section 469 of the Indian Penal Code, and Sections 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988, and disciplinary proceedings are also pending against him, it may not be proper for this Court to interfere with the impugned proceedings and to direct the respondent/Board to settle the terminal benefits, particularly when the petitioner is being paid subsistence allowance from 1.2.2001.

Under the facts and circumstances of the case, suffice it to pass the following order:

(i) the learned Chief Judicial Magistrate, Erode shall dispose of C. C.No.19 of 2001 within six months from the date of receipt of copy of this order; and
(ii) the respondent/Board shall expedite the disciplinary proceedings and pass appropriate orders within six months from the date of disposal of the criminal case.

This writ petition is disposed of accordingly. No costs.

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To:

1. The Chief Judicial Magistrate
Erode.

2. Tamilnadu Water Supply and Drainage Board
rep. by its Managing Director
Chepauk, Chennai-5.

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